

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KEVIN SCOTT,
Plaintiff,
v.

Case No. 2:16-cv-13734
Hon. Denise Page Hood
Mag. David R. Grand

TROTT LAW, P.C.
Defendant,

KEVIN SCOTT, in pro per
Plaintiff
29343 Fieldstone
Farmington Hills, MI 48334

TROTT LAW, P.C.
By: Richard Welke (P44403)
Attorneys for Defendant
31440 Northwestern Hwy., Ste. 200
Farmington Hills, MI 48334
248.723.5765

TROTT'S ANSWER TO COMPLAINT

NOW COMES Trott Law, P.C., by and through its attorneys, Trott Law, P.C., by Richard Welke and for its Answers to Plaintiff's Complaint, states as follows:

INTRODUCTION

1. Defendant admits that Plaintiff alleges that Defendant violated the FDCPA and various other state and federal statutes and causes and that Plaintiff seeks injunctive relief but denies that Defendant engaged in any false, deceptive, misleading, unconscionable or other allegedly illegal practices. Defendant further denies that it is liable to Plaintiff in any amount.

2. This paragraph contains no factual allegations against Defendant therefore no response is required. By way of further response, Defendant denies that Plaintiff is entitled to any protection under MCLA 600.3205 or any subpart. To the extent a response is required, Defendant denies that it engaged in any wrongdoing or is liable to Plaintiff in any amount.

JURISDICTION AND VENUE

3. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant lacks sufficient information to admit or deny the allegations and therefore denies same.

4. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant states that it is a law firm that practices in Michigan.

5. Admit venue for jurisdictional purposes, only.

PLAINTIFF

6. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations.

DEFENDANT

7. Defendant admits the allegations contained in this paragraph.

BACKGROUND

8. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations.

9. Defendant states that the letter, dated September 20, 2016, speaks for itself.

10. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant lacks sufficient information to admit or deny the allegations and therefore denies same.

11. Defendant states that the letter dated September 20, 2016, speaks for itself. By way of further response, Defendant denies any wrongful or illegal conduct.

12. Defendant states that the letter, dated September 20, 2016, speaks for itself.

13. Defendant states that the letter dated September 20, 2016, speaks for itself. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

14. Defendant acknowledges receipt of a letter similar to Exhibit C and forwarded the correspondence to its client for a response..

15. Defendant denies the allegations directed at this Defendant. By way of further response, this Defendant lacks sufficient information to admit or deny

the allegations and therefore denies same allegations directed to non-party Bank of America.

16. Defendant denies any wrongful or illegal conduct.

17. Defendant denies any wrongful or illegal conduct.

18. Defendant denies any wrongful or illegal conduct.

19. Defendant denies any wrongful or illegal conduct. By way of further response, Defendant neither admits nor denies the balance of the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations.

20. Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, Defendant denies any wrongful or illegal conduct.

21. Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, Defendant denies any wrongful or illegal conduct.

22. Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, Defendant denies any wrongful or illegal conduct.

23. Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, Defendant denies any wrongful or illegal conduct.

24. Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, Defendant denies any wrongful or illegal conduct.

25. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

26. This paragraph contains no factual allegations against Defendant therefore no response is required. To the extent a response is required, Defendant denies that it engaged in wrongdoing or is liable to Plaintiff in any amount.

27. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

28. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct

29. Defendant denies the allegations contained in this paragraph.

30. Defendant denies any wrongful or illegal conduct.

COUNT 1: FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

31. Defendant re-alleges and re-incorporates herein its answers to the preceding paragraphs as if fully restated here.

32. Defendant denies the allegations as stated and denies any wrongful or illegal conduct.

33. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations as stated.

34. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations as stated.

35. Defendant denies the allegations contained in this paragraph.

36. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

37. Defendant denies the allegations as stated and denies any wrongful or illegal conduct.

38. Defendant denies the allegations as stated and denies any wrongful or illegal conduct.

39. Defendant denies the allegations contained in this paragraph. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct and denies Plaintiff is entitled to the relief requested.

COUNT 2: VIOLATION OF RESPA ACT

40. Defendant re-alleges and re-incorporates herein its answers to the preceding paragraphs as if fully restated here.

~~41. This paragraph contains legal conclusions to which no response is~~
required. To the extent a response is required, Defendant lacks sufficient

information to admit or deny the allegations and therefore denies same. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

42. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, this Defendant denies any wrong doing or illegal conduct.

43. Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

44. Defendant denies the allegations contained in this paragraph. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

45. Defendant denies the allegations contained in this paragraph.

46. Defendant denies the allegations contained in this paragraph.

COUNT 3: UNREASONABLE COLLECTION EFFORTS

47. Defendant re-alleges and re-incorporates herein its answers to the preceding paragraphs as if fully restated here.

48. Defendant denies the allegations as stated. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

49. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant lacks sufficient information to admit or deny the allegations and therefore denies same. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

50. Defendant denies the allegations as stated. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

51. Defendant denies the allegations contained in this paragraph.

52. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

53. Defendant denies the allegations as stated. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

54. Defendant denies the allegations as stated. Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America and, therefore, denies them..

55. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

56. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested..

COUNT 4: FRAUD, MISREPRESENTATION

57. Defendant re-alleges and re-incorporates herein its answers to the preceding paragraphs as if fully restated here.

58. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies any wrongful or illegal conduct.

59. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies any wrongful or illegal conduct.

60. Upon information and belief, Defendant denies the allegations as stated. By way of further response, Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America.

61. Defendant denies the allegations contained in this paragraph. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

62. Defendant denies the allegations contained in this paragraph. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

63. Defendant denies the allegations contained in this paragraph. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

64. Defendant denies the allegations contained in this paragraph.

65. Defendant denies the allegations contained in this paragraph.

66. Defendant denies the allegations as stated. By way of further response, Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America.

67. Defendant denies the allegations as stated. By way of further response, Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America or its attorneys.

68. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations.

69. Defendant denies the allegations as stated. By way of further response, Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America.

70. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested..

**COUNT 5: INTENTIONAL INFLICTION OF EMOTIONAL
DISTRESS**

71. Defendant re-alleges and re-incorporates herein its answers to the preceding paragraphs as if fully restated here.

72. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

73. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

74. This paragraph contains legal conclusions to which no response is required. To the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

75. This paragraph contains legal conclusions to which no response is required. To the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

76. Defendant denies the allegations contained in this paragraph.

77. Defendant denies the allegations contained in this paragraph.

78. Defendant neither admits nor denies the allegations contained in this paragraph for the reason that it lacks sufficient information or knowledge to form a belief as to the truth of the allegations. By way of further response, to the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

79. Defendant denies the allegations contained in this paragraph.

80. This paragraph contains legal conclusions to which no response is required. To the extent the allegations refer to this Defendant, this Defendant denies any wrong doing or illegal conduct.

81. Defendant denies the allegations contained in this paragraph.

82. Defendant denies the allegations contained in this paragraph and denies the Plaintiff is entitled to the relief requested.

COUNT 6: 42 U.S.C. 1981, EQUAL RIGHTS UNDER THE LAW

83. Defendant re-alleges and re-incorporates herein its answers to the preceding paragraphs as if fully restated here.

84. Defendant denies the allegations as stated. By way of further response, Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America

85. Defendant denies the allegations contained in this paragraph.

86. Defendant denies the allegations contained in this paragraph.

87. Defendant denies the allegations contained in this paragraph.

88. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested.

REQUEST AND PRAYER FOR RELIEF

89. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested.

90. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested.

91. Defendant denies the allegations as stated and denies any wrongful or illegal conduct. Defendant lacks sufficient information to admit or deny the allegations as to non-party Bank of America or its attorneys.

92. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested.

93. Defendant denies the allegations contained in this paragraph and denies that Plaintiff is entitled to the relief requested.

DESIGNATION OF TRIAL COUNSEL

94. Defendant neither admits nor denies the allegations contained in this paragraph.

DEMAND FOR ANTI SPORITION ORDER

95. Defendant neither admits nor denies the allegations contained in this paragraph

96. Defendant neither admits nor denies the allegations contained in this paragraph.

JURY REQUEST

97. Defendant neither admits nor denies the allegations contained in this paragraph.

AFFIRMATIVE/SPECIAL DEFENSES

1. Plaintiff's Complaint fails to state a claim on which relief can be granted.

2. There is no genuine issue as to any material fact, and Defendant is entitled to judgment or partial judgment as a matter of law.

3. Defendant(s) will rely upon all affirmative defenses available pursuant to FRCP 8, FRCP 9 and FRCP 12.

4. Defendant(s) reserve the right to file a Counter-Claim, Cross-Claim or Third-Party Complaint, if appropriate, and as discovery dictates.

5. Plaintiff is not entitled to any relief because of their actions, inactions, contributory negligence, and comparative negligence.

6. The claim is barred because of release, payment, prior judgment, immunity granted by law, statute of limitations, statute of frauds, an agreement to arbitrate (demand is hereby made to arbitrate this matter), infancy or other disability of the moving party, or assignment or other disposition of the claim before commencement of the action.

7. Defendant(s) also rely on the affirmative defenses of accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, fraud, immunity granted by law; want or failure of consideration or that an instrument or transaction is void, voidable, or cannot be recovered on by reason of statute or nondelivery; as appropriate.

8. ~~Plaintiff's claims are barred by the equitable doctrine of estoppel.~~

9. Plaintiff has unclean hands.

10. Plaintiff's claim is barred by the doctrine of res judicata.

11. Plaintiff's claim is barred by the doctrine of collateral estoppel.

12. Plaintiff's claim is barred by a prior judgment.

13. Plaintiff's claims are barred by the equitable doctrine of judicial estoppel for the reason that the claims, as plead in the instant Complaint, were known or reasonably should have been known and were not raised in the Bankruptcy proceedings filed by the Plaintiff(s).

14. To the extent Plaintiff establishes that Defendant made errors or omissions, the errors were bona fide and were otherwise unintentional notwithstanding the maintenance of procedures reasonably adopted to avoid them.

15. Based on 15 U.S.C. § 1692 *et seq*, Defendant is not liable for the alleged violations of the Fair Debt Collection Practices Act (FDCPA).

16. Based on MCL § 339.101 *et seq.*, Defendant is not liable for the alleged violations of the Occupational Code or any state debt collection statutes or laws.

17. Defendant is not liable under any other state debt collection statutes or laws.

18. Defendant is not liable under any provision of RESPA..

19. Defendant is not liable for fraud and/or misrepresentation.

20. Defendant is not liable for any claim of intentional infliction of emotional distress.

21. Defendant is not liable to the Plaintiff for any violation of 42 U.S.C. 1981, EQUAL RIGHTS UNDER THE LAW.

22. Defendant will rely upon any affirmative defense to any alleged violation of any state or federal statute, provision, rule or regulation contained therein or in the common law interpreting same as it relates to this matter presently before this Court.

23. Defendant asserts and will rely upon any and all rights and potential defenses contained in the pre-existing Mortgage and Note as it pertains to this matter.

24. Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff's damages, if any, were caused by Plaintiff's own acts and/or omissions.

25. Plaintiff has not suffered any damage(s) caused by or attributable to Defendant's actions.

26. Plaintiff has failed to mitigate his damages, if any.

27. The conduct complained of did not involve the collection of a debt as that term is defined by the FDCPA and/or the Occupational Code.

28. Plaintiff's claims may be barred, in whole or in part, by consent, waiver, estoppel, laches or unclean hands.

29. Defendant reserves the right to amend and/or supplement its defenses,
as they become known through discovery or otherwise.

Respectfully submitted,
TROTTLAW, PC

/s/ Richard Welke
By: Richard Welke (P44403)
Attorney for Defendant
31440 Northwestern Hwy., Ste. 200
Farmington Hills, MI 48334
(248) 723-5765
rwelke@trottlaw.com

Date: 11-9-16

CERTIFICATE OF SERVICE

Karolyn A. Hanna hereby certify that on November 9, 2016, she electronically filed the foregoing pleadings and this Certificate of Service with the Clerk of the Court using the ECF system and further certifies that a copy of same was mailed via first class mail, by placing same in an envelope with sufficient postage thereon, and depositing same in the United States mail in Farmington Hills, MI to:

Kevin Scott
29343 Fieldstone
Farmington Hills, MI 48334

I declare under the penalty of perjury that the statements above are true to the best of my information, knowledge, and belief.

/s/ Karolyn A. Hanna
Karolyn A. Hanna, Legal
Secretary
khanna@trottlaw.com